

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:20-CT-3136-BO

ARTEMIO GARCIA, JR.,)
)
Plaintiff,)
)
v.)
)
FEDERAL BUREAU OF PRISONS,)
)
Defendant.)

ORDER


On August 6, 2019, plaintiff, a federal inmate proceeding through counsel, filed a complaint in the United States District Court for the District of Columbia, alleging that defendant Federal Bureau of Prisons (“BOP”) violated the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb et seq. (“RFRA”) when it denied his request to have tattoos surgically removed from his body (DE 1). On November 13, 2019, BOP answered plaintiff’s complaint (DE 8). On March 26, 2020, the District of Columbia granted BOP’s motion to transfer the action to this court and stayed entry of a scheduling order (DE 25). On May 8, 2020, the court granted plaintiff’s counsel’s motion to withdraw as attorney of record (DE 31). On May 21, 2020, plaintiff filed a notice of self-representation (DE 33). The matter is now before the court on plaintiff’s motion for appointment of counsel (DE 32).

There is no constitutional right to counsel in civil cases, and courts should exercise their discretion to appoint counsel for *pro se* civil litigants “only in exceptional cases.” Cook v. Bounds, 518 F.2d 779, 780 (4th Cir. 1975). The existence of exceptional circumstances justifying appointment of counsel depends upon “the type and complexity of the case, and the abilities of the individuals bringing it.” Whisenant v. Yuam, 739 F.2d 160, 163 (4th Cir. 1984), abrogated on other

grounds by *Mallard v. U.S. Dist. Court for the S. Dist. of Iowa*, 490 U.S. 296 (1989) (quoting *Branch v. Cole*, 686 F.2d 264 (5th Cir. 1982)). The facts of this case and plaintiff's abilities do not present exceptional circumstances. Accordingly, the court denies plaintiff's motion for appointment of counsel.

In sum, the court DENIES plaintiff's motion for appointment of counsel (DE 32). The court REFERS this action to Magistrate Judge Robert B. Jones, Jr. for entry of a scheduling order to include a period for discovery.

SO ORDERED. This 13 day of July 2020.


TERRENCE W. BOYLE
Chief United States District Judge